

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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EVARISTO RODRIGUEZ, 08A3870,

Plaintiff,

-v-

MR. BRIAN FISCHER,  
MR. JAMES T. CONWAY,  
MR. LESTER N WRIGHT,  
DR. RAO and MS. KILLINGER,

Defendants.

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**DECISION and ORDER**  
10-CV-6243P

Plaintiff *pro se* Evaristo Rodriguez seeks to supplement his complaint with additional facts since the complaint was filed (Docket # 4). By Order dated May 14, 2010, the Court directed service of plaintiff's complaint on the State defendants (Docket # 3). Summonses and Complaints were served by mail by the U. S. Marshals on June 15, 2010. To date, no response to the acknowledgment of service has been received for four of the defendants, and one acknowledgment was returned to the Marshal regarding service on Lester Wright. However, that acknowledgment was not signed or dated, causing the Court to not be in a position to determine when service was effectuated.

Federal Rule of Civil Procedure 15(d) provides that the Court may, on just terms, permit a party to serve a supplemental pleading. Plaintiff may supplement his pleadings, but he must do so in one document which the defendants must answer. Plaintiff may submit an amended complaint by **August 30, 2010** in which he includes the supplemental allegations he seeks to add.

Plaintiff is advised that an amended complaint is intended to **completely replace** the prior complaint in the action. "It is well established that an amended complaint ordinarily supersedes the original and renders it of no legal effect." *Arce v. Walker*, 139 F.3d 329, 332 n. 4 (2d Cir. 1998) (quoting *International Controls Corp. v. Vesco*, 556 F.2d 665, 668 (2d Cir. 1977)); see also *Shields v. Citytrust Bancorp, Inc.*, 25 F.3d 1124, 1128 (2d Cir. 1994). Therefore, plaintiff's amended complaint must include all of the allegations against each of the defendants regarding the claims he seeks to raise in this amended complaint, so that the amended complaint may stand alone as the sole complaint in this action which the defendants must answer. The Clerk of the Court is directed to send to plaintiff with this order a copy of the original complaint, a blank § 1983 complaint form, and the instructions for preparing an amended complaint;

SO ORDERED.

Dated:

July 30, 2010  
Buffalo, New York

  
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WILLIAM M. SKRETNY  
Chief Judge  
United States District Court